



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC 25-30-10 <i>et seq.</i>
<b>Regulation title</b>	Regulations for Asbestos Emission Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Wastes – Incorporation by Reference, 40 CFR 61.140 through 61.156
<b>Document preparation date</b>	March 16, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

Chapter 541 of the 1992 Acts of Assembly transferred regulatory authority and enforcement responsibility for demolition and removal of asbestos facilities to the Department of Labor and Industry. Sections 40.1-51.23 through 40.1-51.39 of the Code of Virginia mandate that the Department of Labor and Industry enforce EPA's NESHAP regulations, 40 CFR 61.140 through 61.156. The agency was also mandated to adopt regulations that were at least as stringent as the asbestos regulations passed pursuant to Section 112 of the Clean Air Act. Since these federal regulations (40 CFR 61-140 through 61.156) were incorporated by reference, the regulation does not exceed the state mandate.

**Alternatives**

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

The Department of Labor and Industry did not consider any alternatives to this regulation because it is mandated by state law.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response

No public comments were received on this regulation during the public comment period which began on January 5, 2009, and ended on January 26, 2009. The agency and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The regulation has two goals:

1. Reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant.
2. The protection of the public’s health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

Goals are established in conjunction with the Virginia Department of Environmental Quality and the United States Environmental Protection Agency to ensure that asbestos abatement and demolition are conducted in a manner that protects the environment from asbestos pollution. Activities to achieve these goals include the collection and sharing of asbestos project and

demolition data to be used for inspection targeting, to ensure compliance with NESHAP regulations. Inspections conducted for compliance with NESHAP regulations as a result of the notification process consistently resulted in fewer violations of this regulation. This increased compliance results in less material impairment of both employee and public health by assurance that adequate safety measures are taken.

This regulation is clearly written and understandable by regulated individuals.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without change.

**Family impact**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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This regulation has no impact on the institution of the family or family stability.